

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
	)	
Petition of Citizens Communications for	)	CC Docket No. 95-116
Waiver of Section 52.33(a) of the	)	
Commission's Rules	)	

**JOINT COMMENTS**

The National Exchange Carrier Association, Inc. (NECA), the National Rural Telecom Association (NRTA), the National Telephone Cooperative Association (NTCA), the Organization for the Promotion and Advancement of Small Telephone Companies (OPASTCO), TDS Telecom, and the United States Telecom Association (USTA) (collectively, the “Associations”) submit these joint comments in the above-captioned matter.

Citizens seeks a waiver to allow it to recover local number portability (LNP) costs via a new end user charge. As the petition explains, all local exchange carriers (LECs) incur costs for the implementation of LNP regardless of whether they currently provide LNP. These costs include ongoing-contributions to the cost of the regional Number Portability Administration Centers (NPACs), LNP database administration, end office software, and most significantly, number portability query service charges.<sup>1</sup> Section

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<sup>1</sup> Under section 53.22 of the Commission's rules, ILECs who provide LNP may assess number portability query service charges upon carriers that terminate traffic in areas served by LNP-capable switches. Because many ILECs that are not required to provide LNP have joint local calling agreements with carriers who are providing number portability, these carriers serve as “N-1” carriers and will thus incur usage-based charges for most calls terminating in the neighboring ILEC's LNP-capable exchanges. Such

52.33(a) of the Commission's rules permits LNP-capable ILECs to recover their carrier-specific LNP costs solely through federally-tariffed end user charges. These charges may be applied, however, only by ILECs that have implemented LNP. No method exists for non-LNP-capable LECs to recover their LNP costs.

Citizens accordingly requests a waiver of section 52.33(a) of the Commission's rules to permit it to recover its LNP costs through a bifurcated end user charge. Prior to implementing LNP in particular exchanges, Citizens proposes to recover its data base administration and query charges via an end user LNP Query Surcharge. After implementing LNP capability in an area, Citizens proposes to recover the remainder of its LNP costs through an LNP Service Surcharge as currently contemplated by section 52.33(a).

The Associations support grant of the requested waiver, but urge the Commission to grant, at the same time, petitions for clarification and/or waiver that have been pending since 1998 in CC Docket No. 95-116 and that relate to the very same cost recovery questions at issue here.<sup>2</sup>

As the Citizens petition shows, failure to specify a method for non-LNP capable carriers to recover their carrier-specific LNP costs is plainly unreasonable. As things stand, carriers are placed in the untenable position of having to forego cost recovery

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traffic sensitive costs are expected to be quite substantial, and will only increase as more carriers become LNP capable. Petition at 3.

<sup>2</sup> See, e.g., NECA Expedited Petition for Reconsideration, CC Docket No. 95-116 (filed July 29, 1998); Joint Petition of the National Exchange Carrier Association, Inc. (NECA), National Rural Telecom Association (NRTA), National Telephone Cooperative Association (NTCA), Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO), and United States Telephone Association (USTA) for Expedited Interim Waiver of Section 52.33(a) of the Commission's Rules, CC Docket No. 95-116 (filed March 19, 1999).

entirely, or undertake expensive and unnecessary steps to implement LNP capability simply to qualify for cost recovery.<sup>3</sup> It's time for the Commission to act on this matter.

Citizens' waiver request differs from pending petitions filed by the Associations in that the earlier petitions sought Commission approval to include LNP costs in normal accounts and to flow-through those amounts to interstate access charges, in accordance with Commission accounting and access charge rules. Citizens approach, however, would result in the recovery of these costs from end users, similar to the method approved by the Commission for LNP capable carriers.

Citizens is entitled to recover the LNP costs identified in its petition. Recovery of those costs through an end user surcharge is justified since Citizens is a price cap company subject to CALLS, and as such, it is unable to recover the costs in its access rates.<sup>4</sup> Since Citizens is entitled to recover its costs and cannot do so in its access rates, NECA and the signatory associations support Citizens' waiver request so that it may recover its LNP costs through an end user surcharge.

But the vast majority of rural LECs who have not implemented LNP capability continue to operate under rate of return regulation and are therefore subject to the Commission's traditional Part 32, 36 and 69 rules. These rules clearly permit carriers to include normal costs incurred in the provision of interstate telephone services in their regulated accounts and to recover these costs.

Respectfully submitted,

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<sup>3</sup> Petition at 4-5.

<sup>4</sup> Petition at 6; *see also* In the Matter of Access Charge Reform, CC Docket No. 96-262, *Sixth Report and Order*, 15 FCC Rcd. 12962 at para. 56 (2000)(CALLS Order).

NATIONAL EXCHANGE  
CARRIER ASSOCIATION, Inc.

By: /s/ Gina Harrison  
Gina Harrison  
Colin Sandy (admission pending)  
Its Attorneys

2120 L Street NW, Suite 650  
Washington, DC 20037  
(202) 263-1654

August 6, 2001

NATIONAL RURAL TELECOM ASSOCIATION

By: /s/ Margot Smiley Humphrey  
Margot Smiley Humphrey  
Holland & Knight  
2099 Pennsylvania Avenue, Ste. 100  
Washington, DC 20006  
(202) 955-3000

NATIONAL TELEPHONE COOPERATIVE ASSOCIATION

By: /s/ L. Marie Guillory  
L. Marie Guillory  
Daniel Mitchell  
*Its Attorneys*  
4121 Wilson Blvd., 10<sup>th</sup> Floor  
Arlington, VA 22203  
(703) 351-2000

ORGANIZATION FOR THE PROMOTION AND ADVANCEMENT OF SMALL  
TELECOMMUNICATIONS COMPANIES

By: /s/ Stuart Polikoff  
Stuart Polikoff  
*Director*, Government Relations  
21 Dupont Circle, NW, Ste. 700  
Washington, D.C. 20036  
(202) 659-5990

TDS TELECOM

By: /s/ Jeff Jung  
Jeff Jung  
*Director* - Regulatory Settlements and Costing  
301 S. Westfield Road  
Madison, WI 53717-1799  
(608) 664-4195

UNITED STATES TELECOM ASSOCIATION

By: /s/ Lawrence E. Sarjeant  
Lawrence E. Sarjeant  
Linda L. Kent  
Keith Townsend  
John W. Hunter  
Julie E. Rones  
*Its Attorneys*  
1401 H Street, NW  
Suite 600  
Washington, D.C. 20005  
(202) 326-7300

## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the Comments was served this 6<sup>th</sup> day of August 2001, by hand delivery or first class mail, to the persons listed below.

By: /s/ Robert Falkner  
Robert Falkner

The following parties were served:

Magalie Roman Salas\*  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
TW-A325  
Washington, D.C. 20554  
(Original and four copies)

International Transcription Service (ITS)  
1231 20<sup>th</sup> Street  
Washington, D.C. 20036

Jane Jackson\*  
Chief, Competitive Pricing Division  
Common Carrier Bureau  
Federal Communications Commission  
TW-A225  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

John B. Adams  
Kraskin, Lesse & Cosson, LLP  
2120 L Street, N.W., Suite 520  
Washington, D.C. 20037

Margot Smiley Humphrey  
National Rural Telecom Association  
Holland and Knight  
2099 Pennsylvania Ave., Suite 100  
Washington, D.C. 20006

L. Marie Guillory  
Daniel Mitchell  
National Telephone Cooperative Association  
4121 Wilson Blvd., 10<sup>th</sup> Floor  
Arlington, VA 22203

Stuart Polikoff  
OPASTCO  
21 Dupont Circle, N.W., Suite 700  
Washington, D.C. 20036

Jeff Jung  
TDS Telecom  
301 S. Westfield Road  
Madison, WI 53717-1799

Lawrence Sargent  
Linda Kent  
Keith Townsend  
John Hunter  
Julie Rones  
USTA  
1401 H Street, N.W.  
Suite 600  
Washington, D.C. 20005

\*Hand Delivered